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February 10, 1956

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CONCORD, N.H.

Mr. Winfield J. Phillips
Bank Commissioner
State of New Hampshire
State House
Concord, New Hampshire

Dear Mr. Phillips:

I have examined your letter of January 30, 1956 and enclosures relating to an arrangement whereby the Nashua Trust Company appoints a corporation, Thrift Stores, Inc., to sell their customers "registered checks" which are drawn on said bank. The purchaser of these checks keeps a carbon copy on which it is printed, in relatively small type, that the store acts as his agent only and not as agent for the drawee bank. You have asked whether or not this constitutes a violation of RSA 384:24. In my opinion this activity is not contrary to that statute.

Thrift Stores, Inc. is not a bank or banking corporation although it is undoubtedly true that it possesses some of the powers or facilities which may be used by a bank and are commonly used by banks in the transaction of business. However, banking is not the object of its incorporation. Wells Fargo and Co. v. Northern Pacific Railway, 23 F. 469, 471; Carson Naval Stores Co. v. United States, 29 F. Supp. 818; The State of Missouri v. Currency Services, Inc., 358 Missouri 983.

In addition to the question you have raised, I have given some thought to whether or not this arrangement constitutes a form of prohibited branch banking. I do not find that this arrangement constitutes branch banking. State Tax Commission v. Yavapai County Savings Bank, 81 P. 2nd 86.

C O P Y

OFFICE OF ATTORNEY GENERAL

Winfield J. Phillips -- 2.

February 10, 1956

Your letter raises the prospect of several possibilities whereby the purchasers of one of these checks may suffer loss.

It is interesting to note that in the case of The State of Missouri v. Currency Services, Inc., 358 Missouri 983, that the Court, while holding that the issuance of "bondified" checks in similar fashion to the arrangement between Thrift Stores, Inc. and Nashua Trust Company, commented that this business is coupled with the same sort of public interest which requires the regulation of banks and trust companies and suggested that the matter was a proper subject for future statutory regulation.

I return to you herewith the enclosures which you sent with your letter.

Very truly yours,

George F. Nelson
Assistant Attorney General

QFN:W

Encl. - Material dated 2/20/56